

# GOLDMAN TISEO STURGES

ATTORNEYS AT LAW

**Jason B. Goldman**

T: 941.625.6666

F: 941.625.0660

jgoldman@gtslawfirm.com

Legal assistant: Karen Simmons

ksimmons@gtslawfirm.com

Website: www.gtslawfirm.com

## Mediation

### ***For the benefit of attorneys attempting to schedule mediations:***

Mr. Goldman has been certified as a circuit court mediator by the Florida Supreme Court. Oftentimes as you know, having a mediator experienced and familiar with the type of dispute being mediated can be the difference between the case resolving itself under favorable terms, or even resolving itself at all. We are more than happy to mediate cases, both court-ordered and pre-suit, at virtually any location agreed upon by the parties. For further information regarding mediation services, scheduling, and fees, please contact Karen Simmons (ksimmons@gtslawfirm.com).

Our mediation fee schedule is as follows:

**2 parties: \$250.00 per hour**, divided equally, with a 10% reduction for parties making payment directly upon conclusion of the mediation

**3 parties: \$300.00 per hour**, divided equally, with a 10% reduction for parties making payment directly upon conclusion of the mediation

**4 parties or more: \$400.00 per hour**, divided equally, with a 10% reduction for parties making payment directly upon conclusion of the mediation

**Travel: \$50.00 per hour**, divided equally, if outside Charlotte County, Florida

**Minimum fee:** **½ day mediation:** 3 hours at applicable hourly rate  
**Full day mediation:** 4 hours at applicable hourly rate

**Cancellation fee:** If the mediation is **cancelled by any party within 48 hours** of the scheduled mediation date, or if the mediation is canceled due to the non-appearance of any party, the cancellation fee to be divided equally amongst the parties is equal to a minimum of 2 hours, or ½ the total amount of time set aside for the mediation, whichever is greater

***For the benefit of clients interested in learning more about mediation or how it might affect their cases:***

**How does mediation work?**

The simple purpose of mediation is to provide a means whereby parties to a dispute and their attorneys can sit down and attempt to negotiate a reasonable settlement satisfactory to both parties. Mediation is a relatively straightforward process. A mediator, who is an impartial observer, meets with the parties and their attorneys in a relaxed setting in an effort to promote open communication and a spirit of cooperation. Generally, each party of their attorney will present to the other side and to the mediator their reasoning as to why they feel they should win and their chances of winning or losing. The mediator will then meet with the parties together and by questioning and discussion will assist the parties to fairly and properly evaluate their cases.

Oftentimes, a mediator will then meet with a party and his/her attorney in private to discuss both the good points and the bad points about their case. The mediator will likewise meet with the other side to discuss with them the good points and the bad points of their case. Occasionally, the mediator will meet with the clients personally without their attorneys being present.

By serving as a third party impartial participant in the process, a mediator attempts to get both sides to reach a mutually satisfactory settlement of the case without further time and attorney fee expense being incurred by the parties to the dispute.

**How does mediation differ from arbitration?**

A mediator normally has no authority to render a decision. A mediator simply facilitates an agreement among the parties. An arbitrator conducts a contested hearing between the parties and then, acting as a judge, renders a legally binding decision.

**When may I seek mediation?**

Mediation can occur at any time during a dispute, which surprises most people. In many instances, mediation can occur and be successful prior to a lawsuit ever being filed. In cases where a lawsuit has been filed, the trial judge may order the parties to attempt mediation as a way of resolving the case prior to trial. Mediation is mandatory in civil cases in many jurisdictions throughout the State of Florida.

**Is mediation mandatory?**

While a judge in a lawsuit can order parties to attempt to mediate in good faith, nothing else can be compelled to occur in mediation. Everything else about mediation is voluntary. The case can only be settled if both parties agree to settle. The parties have complete decision-making power and a veto over each and every provision of any mediated agreement. Nothing can be imposed on the parties by anyone involved in the mediation process.

**Is mediation open to the public?**

No. Mediation is confidential. Anything which the parties say to the mediator or to the other side during the mediation process is confidential. That means the parties can never be questioned about statements they may have made to the mediator or during the mediation process.

**Is mediation fair?**

Mediation is impartial, neutral, and safe. The mediator has an equal and balanced responsibility to assist each mediating party and cannot favor the interests of any one party over another, nor should the mediator favor a particular result in the mediation. Your mediator is ethically obligated to acknowledge any substantive bias on substantive issues in discussion. The mediator's role is to ensure that parties reach agreements in a voluntarily and informed manner, and not as a result of coercion or intimidation.

### **Why should I consider mediation?**

Mediation is responsible: Based upon having actively resolved your own conflict, participant satisfaction, likelihood of compliance and self-esteem are found by research to be dramatically elevated through mediation. This being said, the decision to mediate a case to conclusion is specifically the decision of the parties, not their attorneys or the mediator.

### **How long does mediation take?**

Typical mediation cases, such as consumer claims, small business disputes, or automobile accident claims, are usually resolved after a half day or, at most, a full day of mediation. Cases with multiple parties often last longer. Major business disputes involving large sums of money, complex contracts, or dissolution of a partnership may last several days or longer.

### **What are the benefits of mediation?**

1. **Mediation promotes economical decisions:** Mediation is generally less expensive when contrasted to the expense of litigation.
2. **Mediation promotes swift settlements:** In an era when it may take as long as two (2) years to get a court date, and multiple years if a case is appealed, the mediation alternative often provides a more timely way of resolving disputes. When parties want to get on with business or their lives, mediation may be desirable as a means of producing direct results.
3. **Mediation promotes mutually beneficial outcomes:** Parties are generally more satisfied with solutions that have been mutually agreed upon, as opposed to solutions that are imposed by a third party decision-maker such as a judge or jury.
4. **Mediation promotes high rates of compliance:** Parties who have reached their own agreement in mediation are also generally more likely to follow through and comply with its terms than those whose resolution has been imposed by a third party decision-maker such as a judge or jury.
5. **Mediation promotes creative, customized settlements:** Mediated settlements are able to address both legal and extra-legal issues. The parties can tailor their settlement and its terms to their particular situation.
6. **Mediation promotes control by the parties:** Parties who negotiate their own settlements have more control over the outcome of their dispute. Gains and losses are more predictable in a mediated settlement than they would be if a case is arbitrated or brought before a judge or jury.
7. **Mediation promotes the preservation of an ongoing relationship or termination of a relationship in a more amicable way:** Many disputes occur in the context of relationships that will continue over future years. A mediated settlement that addresses all parties' interests can often preserve a working relationship in ways that would not be possible in a win/lose lawsuit. Mediation can also make the termination of a relationship more amicable.
8. **Mediation promotes decisions that stand the test of time:** Mediated settlements tend to hold up over time, and if a later dispute results, the parties are more likely to utilize a cooperative forum of problem-solving to resolve their differences than to pursue an adversarial approach.